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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,755

11/29/2006

Roclof Marissen

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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,755	Applicant(s) MARISSEN ET AL.	
	Examiner Elizabeth M. Cole	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/4/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/27/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election without traverse of Group I, claims 1-12 in the reply filed on 11/4/09 is acknowledged.
2. Claim 3 is objected to because of the following informalities: in claim 3 2 there is, typographical error- the "surfaceis" should be the surface is. Appropriate correction is required.
3. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support the limitation that the woven fabric consists of monofilaments with a titre of at most 10 denier per filament. The specification provides support for the limitation that the woven fabric consists of monofilaments with a titre of at least 10 denier per filament in paragraph 0016.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-3, 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harpell et al, U.S. patent No. 5,135,804 in view of Ward, U.S. Patent No. 5,628,946 . Harpell discloses a process for forming articles from polyethylene fibers. The process comprises providing drawn gel spun polyethylene fibers and applying heat at

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temperature of 100-160 degrees C, pressure of anywhere from 0.5-200 MPa for times which can vary widely and be as low as one tenth of a second up to twenty or thirty minutes. See col. 3, lines 15-63. The fibers have a denier of less than 1000, (see examples). The shaping process can be performed in a mold. The fibers can be in the form of a woven fabric, including plain, basket or satin weaves, or in the form of a triaxial weave which corresponds to the claimed multi-layered and three dimensional weaves. It is noted that the yarns are made up of a plurality of monofilaments. The denier of the 32 filament yarn employed in example 1 is 147, and thus, the denier of the individual monofilaments making up the yarn is about 4.6 which meets the limitations of claim 6. (See example 1 which states the yarn denier, number of filaments and that the filaments are monofilaments). With regard to claims 2, 3 and 11 since Harpell et al teaches the claimed titre and teaches that i and j can be one, (i.e., teaches a plain weave), which is the preferred value set forth in the instant specification, (see paragraph 0014), the exposed fiber length necessarily meets the values set forth in claims 2 and 3. With regard to the limitation that the material is a prosthetic material and that the mold comprises a hollow mold and a plug, Harpell is silent as to these limitations. However, Ward teaches employing molded gel spun fibers as prosthetic materials such as hip joints. Therefore, it would have been obvious to one of ordinary skill in the art to have employed the material of Harpell to form artificial joints and other prosthetic materials and to have employed a mold having a suitable shape, such as a hollow mold and plug as claimed, in order to form the molded article into the desired shape.

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6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harpell et al in view of Ward as applied to claims above, and further in view of Harpell et al, U.S. patent No. 4,455,273, (Harpell 2). With regard to claims 5 and 6, Harpell does not disclose the claimed viscosity. However, Harpell discloses employing the particular polyethylene fibers of Harpell 2. The polyethylene of Harpell2 has the claimed viscosity. See col. 3, lines 1-10. Therefore, since Harpell teaches that the fibers of Harpell2 are suitable for use in forming the molded gel articles and those fibers have the claimed viscosity, it would have been obvious to have used the fibers of Harpell2 in view of the specific suggestion to do so in Harpell.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

e.m.c